

REMARKS/ARGUMENTS

Applicants submit this Amendment After Final (“Amendment”) in reply to the Final Office Action (“Office Action”) mailed March 2, 2004.

In this Amendment, Applicants propose to cancel, without prejudice or disclaimer, claims 51-74 and 78-92. Applicants also propose to amend claims 31, 34-36, 44, and 47-49 to better define the claimed invention. Additionally, Applicants propose to amend claims 75-77 to place them in independent form. Further, Applicants propose to amend claims 16, 25-33, 38, 44, and 46 to improve clarity. Finally, Applicants propose to add new claims 93-118.

Before entry of this Amendment, claims 14-16 and 25-92 were pending in this application. After entry of this Amendment, claims 14-16, 25-50, 75-77, and 93-118 are pending in this application.

The originally-filed specification, claims, abstract, and drawings fully support the amendments to claims 16, 25-36, 38, 44, 46-49, and 75-77 and the addition of new claims 93-118. No new matter was introduced.

In the Office Action, the Examiner withdrew claims 53 and 90-92 from further consideration; objected to claims 31, 44, 56, and 78 under 37 C.F.R. § 1.75(c); rejected claims 26-36, 44, 47-49, 55-58, 66, 67, and 78 under 35 U.S.C. § 112, ¶ 2; rejected claims 51, 54-58, 60-73, and 78-86 under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent Application No. 04-274,903 (“JP ’903”); rejected claims 51, 54, 60-74, and 78-89 under 35 U.S.C. § 102(b) as being anticipated by European Patent Application No. 0,652,116 (“EP ’116”); rejected claim 52 under 35 U.S.C. § 103(a) as being unpatentable over JP ’903 in view of U.S. Patent No. 3,969,568 to Sperley (“Sperley”); rejected claim 52 under 35 U.S.C.

§ 103(a) as being unpatentable over EP '116 in view of Sperley; rejected claims 56 and 59 under 35 U.S.C. § 103(a) as being unpatentable over JP '903 in view of U.S. Patent No. 4,871,004 to Brown et al. ("Brown"); rejected claim 74 under 35 U.S.C. § 103(a) as being unpatentable over JP '903 or, alternatively, EP '116, in view of U.S. Patent No. 3,759,306 to Greiner et al. ("Greiner"); and rejected claims 84-89 under 35 U.S.C. § 103(a) as being unpatentable over JP '903 or, alternatively, EP '116, in view of U.S. Patent No. 5,576,104 to Causa et al. ("Causa") and European Patent Application No. 0,592,218 ("EP '218").

Additionally, the Examiner stated that claims 14-16, 25, 37-43, 45, 46, and 50 are allowed; that claims 26-36, 44, and 47-49 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. § 112, ¶ 2; and that claims 75-77 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's statement that claims 14-16, 25, 37-43, 45, 46, and 50 are allowed. Additionally, Applicants gratefully acknowledge the Examiner's statement that claims 26-36, 44, 47-49, and 75-77 would be allowable if rewritten.

35 U.S.C. § 102(b) Rejections

Applicants submit that the proposed cancellation, without prejudice or disclaimer, of claims 51-74 and 78-92 obviate the Examiner's rejections under 35 U.S.C. § 102(b).

35 U.S.C. § 103(a) Rejections

Applicants submit that the proposed cancellation, without prejudice or disclaimer, of claims 51-74 and 78-92 obviate the Examiner's rejections under 35 U.S.C. § 103(a).

37 C.F.R. § 1.75(c) Objections

Applicants submit that the proposed amendment of claims 31 and 44 to recite “wherein the elastomeric intermediate layer is incorporated into the tread band prior to vulcanization of the tire” and the proposed cancellation, without prejudice or disclaimer, of claims 56 and 78 obviate the Examiner’s objections under 37 C.F.R. § 1.75(c).

35 U.S.C. § 112, ¶ 2, Rejections

Applicants submit that proposed amendments of claims 26-30, 32, and 33 so that they depend from claim 25; the proposed amendments of claims 34-36 and 47-49 substantially as suggested by the Examiner; and the proposed amendments and cancellations, without prejudice or disclaimer, discussed above obviate the Examiner’s rejections under 35 U.S.C. § 112, ¶ 2.

Claims 75-77

Applicants rewrite claims 75-77 substantially as suggested by the Examiner. As a result, Applicants submit that claims 75-77 are patentable over the cited references for at least the reasons discussed by the Examiner in the Office Action.

Claims 93-118

Applicants note that new claims 93-118 all depend, directly or indirectly, from allowed claim 14 or 16 or allowable claim 75 or 77. As a result, Applicants submit that claims 93-118 are patentable over the cited references for at least the reasons discussed by the Examiner in the Office Action in relation to claims 14, 16, 75, and 77.

Claim Scope

In discussing the specification, claims, abstract, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any

exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants believe that Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Summary

In summary, Applicants submit that none of the cited references, including Brown, Causa, Greiner, Sperley, EP '116, EP '218, JP '903, and the other art of record, either alone or in any proper combination, teaches or suggests Applicants' claimed invention.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 14-16, 25-50, 75-77, and 93-118 in condition for allowance. Applicants submit that the proposed amendments to claims 16, 25-36, 38, 44, 46-49, and 75-77 and the proposed addition of new claims 93-118 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, because all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

It is respectfully submitted that the entering of this Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of this Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing amendments and remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this

Amendment, the Examiner's reconsideration and reexamination of this application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.



Dated: May 24, 2004

By: _____

Lawrence F. Galvin
Reg. No. 44,694